OFFICE OF THE
PUBLIC COMPLAINTS COMMISSIONER

REPORT CONCERNING THE INVESTIGATION
OF THE MORRISH ROAD INCIDENT
MAY 29/30, 1982

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Morrish Road Investigation

On May 29, 1982, police were called to a party at 535 Morrish Road in Scarborough. By estimates of witnesses at the scene, the party numbered some 300-500 people. Fifty-three officers came to the scene in response to complaints, arriving at various times during the evening. After attempting to contain the situation for some time, the officers ordered the party-goers to disperse and circled the property so that no more people could enter the house. At some point during the evening bottles were thrown at police officers and two officers ran toward the house. At this point, a number of officers converged upon the house and there was an altercation between the police and some party-goers. A CITY-TV photographer was present on the scene with a video camera and some of the incidents occurring were recorded on tape.

As a result of this incident, several people sued the police force for property damage and a number of people complained of assault by police. An investigation was commenced by the Police Complaints Investigation Bureau of the police force. The CITY-TV video tape, which was made available after being shown on television news, clearly showed that several officers were on the front lawn of the property

as party-goers were leaving, and that some of these officers used their batons in an indiscriminate manner to strike some of the party-goers who were running from the area. The officers were not at that particular moment defending themselves from being assaulted, nor were they attempting to make an arrest. One officer was seen kicking out at several individuals, another officer was seen dragging someone who was on all fours, striking him with his baton and kicking him, and other officers were seen swinging their batons at individuals.

On August 12, Police Chief Jack Ackroyd asked the P.C.C. to take over the investigation in the matter. After some investigation of the allegations, it became evident that identification of the officers involved was going to be extremely difficult. In November, 1982, senior Crown counsel and senior police officers were asked to review the results of the investigation. They concluded that there was insufficient identification evidence to lay criminal charges or internal disciplinary charges.

Because of the high degree of public interest in the matter, the Commissioner decided to hold parts of the investigation in public. Preparation for the investigation included considerable effort by the P.C.C. investigators to get witnesses to the incident to come forward. Some witnesses eventually came forward and testified, during 13 days of public hearings.

The major problem at the hearing was identification of officers who may have been guilty of misconduct. Unfortunately, the CITY-TV video tape had been shot under extremely poor conditions, which limited its usefulness. This identification problem was further compounded by the fact that a number of the officers involved had removed their hats, which contained their identification numbers.

A number of methods of identification were tried; complainants reviewed pictures of the officers who were present at the scene, and watched the video tape at normal and slowed speed. In total, the tape was shown some 150 times during the course of the public investigation. The police investigators had sent a copy of the video tape to the Defence Research establishment in Valcartier, Quebec, to have experts there attempt to enhance it and get more detailed sharpness and clarity. However, due to poor quality, poor lighting and rain interference, the Defence Research establishment was unable to produce a better reproduction. Neither an enlarged version of the tape, nor still photographs made from the tape achieved sufficient quality to enable witnesses to identify particular officers.

A P.C.C. investigator went to Boston, Massachusetts to consult with the optical division of the ITEK Corporation, which assists in the analysis of space photography. Once again, an attempt was made to achieve more detailed sharpness and clarity, but this was not possible.

The police officers involved in the incident were not helpful in assisting the P.C.C. with identification. Some officers - those who appeared on the video tape in non-controversial activities - were identified by themselves or their colleagues, even though they were in the background or with their backs partially to the camera. However, no police witnesses identified officers in the act of striking any civilian complainant either from the video tape or from their recollection of events at the scene.

At the conclusion of the public investigation into the Morrish Road incident, no misconduct could be attributed to any particular officer, although it was clear that misconduct had occurred.

In summing up the investigation, the Commissioner made a public statement outlining the events under inquiry and giving a frank analysis of the problems with identification that had occurred. He also made nine recommendations for a police response to the incident. Some of these recommendations were aimed at ameliorating the situation. These included a public apology by the Chief of Police and the settlement of civil suits launched as a result of the incident. Other recommendations were aimed at prevention of similar incidents in the future and at implementing means of avoiding the identification problem by better police recording of crowd control situations. All the recommendations were implemented by the police force.

OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER

PUBLIC INQUIRY
RE: INCIDENT AT 535 MORRISH ROAD
MAY 29/30, 1982

OPENING STATEMENT OF
PUBLIC COMPLAINTS COMMISSIONER,
SIDNEY B. LINDEN, Q.C.

INQUIRY COMMENCING ON
MONDAY, JANUARY 17TH, 1983.

THIS IS A PUBLIC INQUIRY WHICH IS TO BE DISTINGUISHED FROM A PUBLIC HEARING.

UNDER OUR ACT, THE METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981, AFTER AN INVESTIGATION OF A COMPLAINT HAS BEEN COMPLETED WHETHER THAT INVESTIGATION IS DONE BY THE POLICE OR BY OUR CIVILIAN INVESTIGATORS, OR A COMBINATION THEREOF, THE CHIEF OF POLICE OR HIS NOMINEE MAKES A DECISION, IN WRITING, AS TO HOW THAT COMPLAINT WILL BE RESOLVED. THE PEOPLE AFFECTED (THE COMPLAINANT OR THE POLICE OFFICER) RECEIVE A COPY OF THAT RESOLUTION. IF EITHER IS NOT SATISFIED WITH THE DISPOSITION, THEY MAY REQUEST THAT OUR OFFICE CONDUCT A CIVILIAN REVIEW OF THE MATTER.

OUR OFFICE HAS BROAD POWERS DURING THE REVIEW STAGE INCLUDING THE POWER TO SUBPOENA THE ATTENDANCE OF WITNESSES - POLICE OR CIVILIAN - IF DEEMED NECESSARY.

AT THE CONCLUSION OF THE REVIEW, I, AS COMMISSIONER, MUST DECIDE WHETHER OR NOT IT IS IN THE PUBLIC INTEREST TO HOLD A HEARING.

THESE HEARINGS ARE PUBLIC AND AS YOU ARE AWARE, SEVERAL ARE NOW IN VARIOUS STAGES OF COMPLETION.

A HEARING REQUIRES THAT A SPECIFIC CHARGE OR ALLEGATION OF MISCONDUCT BE MADE AGAINST A PARTICULAR POLICE OFFICER. THE SUBJECT OFFICER IS IN JEOPARDY DURING THE HEARING AS HIS RIGHTS MAY BE DIRECTLY AFFECTED. THE HEARING PANEL HAS THE POWER TO IMPOSE A DISCIPLINARY PENALTY DIRECTLY IF IT MAKES A FINDING OF MISCONDUCT. THIS PENALTY CAN RANGE FROM A REPRIMAND TO DISMISSAL FROM THE FORCE. THEREFORE, THE RIGHTS OF ALL PERSONS ARE SCRUPULOUSLY OBSERVED AT A PUBLIC HEARING. THE PRINCIPLES OF NATURAL JUSTICE AND RULES OF DUE PROCESS APPLY. A PERSON AFFECTED MAY APPEAR WITH COUNSEL AND PARTICIPATE IN THE HEARING. IF THE HEARING PANEL MAKES AN ERROR IN LAW, THERE IS AN APPEAL PROVIDED TO THE DIVISIONAL COURT OF THE SUPREME COURT OF ONTARIO. HOWEVER, EXCEPT WHERE THERE IS AN APPEAL, THE HEARING PANEL ITSELF MAKES A FINAL DETERMINATION AFFECTING THE RIGHTS OF THE PARTIES AT THE HEARING.

WHAT WE ARE ENGAGED IN TODAY MAY BE DISTINGUISHED FROM THAT AND MAY BE DESCRIBED AS A PUBLIC INQUIRY. THE AUTHORITY TO CONDUCT SUCH A PUBLIC INQUIRY IS FOUND IN OUR ACT, (THE METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981).

IN THIS PARTICULAR CASE WE WERE EXPRESSLY REQUESTED TO CONDUCT AN INDEPENDENT PUBLIC INQUIRY BY THE CHIEF OF POLICE. THAT IS ONE OF THE OPTIONS OPEN TO THE CHIEF UNDER OUR ACT AND IT DEMONSTRATES THE FLEXIBILITY AND RANGE OF THIS NEW POLICE COMPLAINTS PROCEDURE.

THERE IS VERY LITTLE GUIDANCE REGARDING THE PROCEDURE TO BE USED AT A PUBLIC INQUIRY, EITHER IN OUR OWN ACT OR IN THE PUBLIC INQUIRIES ACT. (THIS LATTER ACT IS INCORPORATED BY REFERENCE INTO OUR ACT).

THERE IS, HOWEVER, A SUBSTANTIAL BODY OF CASE LAW DEALING WITH THE QUESTION OF PUBLIC INQUIRIES. READING THOSE CASES AND DISTILLING THE PRINCIPLES THAT EMERGE, INDICATE THAT AN INQUIRY IS PURELY INVESTIGATIVE IN CHARACTER AND DESIGNED TO OBTAIN ALL RELEVANT INFORMATION IN THE MOST EFFECTUAL MANNER POSSIBLE. FURTHER, BECAUSE OF THE ABSENCE OF EXPRESS RULES OF PROCEDURE, THE COMMISSIONER IS FREE TO REGULATE THE PROCEEDINGS AS HE SEES FIT, PROVIDED, THAT HE ACTS JUDICIALLY IN THE SENSE THAT HE MUST BE HONEST, FAIR AND IMPARTIAL IN THE CONDUCT OF THE INQUIRY AND IN THE REPORT WHICH HE SUBSEQUENTLY MAKES.

AFTER THE INVESTIGATION, THE COMMISSIONER MUST REPORT UPON THE MATTERS WHICH WERE THE SUBJECT OF THE INVESTIGATION.

IT IS NOT PART OF HIS FUNCTION TO DETERMINE ANY RIGHTS OR THE GUILT OR INNOCENCE OF ANY PERSON. HOWEVER, IT IS POSSIBLE THAT ACTION MIGHT BE TAKEN AS A RESULT OF THE COMMISSIONER'S REPORT. UNDER OUR ACT, IT IS OPEN TO PERSONS AFFECTED TO REQUEST A CIVILIAN REVIEW OF ANY PURPORTED ACTION. THEREFORE, IT IS POSSIBLE THAT CHARGES MAY BE LAID AS A RESULT OF OUR REPORT OR THAT HEARINGS MIGHT BE HELD BY OUR BOARD IN RESPECT OF SOME OF THESE MATTERS.

THE INQUIRY AND INVESTIGATION INTO THIS MATTER BEGAN ALMOST IMMEDIATELY AFTER THE EVENT OCCURRED IN MAY AND IT HAS BEEN EXTENSIVE. OVER 100 WITNESSES HAVE ALREADY BEEN INTERVIEWED INCLUDING POLICE OFFICERS AND CIVILIANS. THERE IS A VIDEO TAPE OF PART OF THE INCIDENT AS WELL AS MANY PHOTOGRAPHS AND SCALE DRAWINGS, ETC.

THE INVESTIGATION WAS COMMENCED BY THE METROPOLITAN TORONTO PUBLIC COMPLAINTS INVESTIGATION BUREAU AND WAS TAKEN OVER BY OUR OFFICE AT THE REQUEST OF THE CHIEF OF POLICE IN AUGUST. WE HAVE ALREADY INTERVIEWED MANY WITNESSES AND SOME OF THESE INTERVIEWS HAVE BEEN UNDER OATH.

SOME OF THIS INFORMATION WAS PLACED BEFORE OFFICIALS OF THE POLICE DEPARTMENT AND THE CROWN ATTORNEY'S OFFICE IN NOVEMBER. THE LOCAL CROWN ATTORNEY AS WELL AS SENIOR

CROWN LAW OFFICERS REVIEWED THE AVAILABLE EVIDENCE AND DECIDED THAT IT WAS INSUFFICIENT TO JUSTIFY LAYING A CRIMINAL CODE CHARGE. THE POLICE THEMSELVES DID NOT FEEL THAT THE AVAILABLE EVIDENCE WAS SUFFICIENT TO LAY A POLICE ACT CHARGE.

AT THAT TIME, I, AS PUBLIC COMPLAINTS COMMISSIONER, DECIDED THAT IT WAS IN THE PUBLIC INTEREST TO CONTINUE THE INQUIRY AND INVESTIGATION IN A MORE PUBLIC WAY INCLUDING, THE EXAMINATION OF A NUMBER OF WITNESSES BOTH POLICE OFFICERS AND CIVILIANS, UNDER OATH. ADVERTISEMENTS WERE PLACED IN ALL THE LOCAL NEWSPAPERS FOR PERSONS WITH INFORMATION ABOUT THE INCIDENT TO COME FORWARD.

THERE IS CONSIDERABLE PUBLIC INTEREST IN THIS MATTER AND THE VIDEO TAPE PART OF THE INCIDENT HAS ALREADY BEEN SHOWN ON TELEVISION. AS PUBLIC COMPLAINTS COMMISSIONER I AM HOPEFUL THAT THE PUBLIC PART OF THIS INVESTIGATION SERVES AN EDUCATIONAL AND INFORMATIONAL VALUE AND THAT IT SATISFIES THE PUBLIC'S RIGHT TO KNOW. HOWEVER, I MUST BE EXTREMELY CAREFUL SO AS NOT TO UNFAIRLY JEOPARDIZE OR PREJUDICE ANYONE'S LEGAL RIGHTS.

IN THIS CASE, I AM PARTICULARLY CONCERNED THAT ALLEGATIONS MIGHT BE MADE ABOUT AN INDIVIDUAL WITHOUT THAT PERSON BEING PRESENT OR HAVING AN OPPORTUNITY TO CHALLENGE THE ALLEGATION

AS SOON AS IT IS MADE. EVEN IF WE WERE TO PROVIDE THAT RIGHT LATER ON IN THE INQUIRY, THE DAMAGE MIGHT BE IRREPARABLE. ON THE OTHER HAND, TO ALLOW EVERYONE WHO MIGHT BE NAMED DURING THE COURSE OF THE INQUIRY TO BE PRESENT AND REPRESENTED BY COUNSEL THROUGHOUT, WOULD CHANGE THE INVESTIGATIVE NATURE AND CHARACTER OF THE INQUIRY.

SOME OF THE WITNESSES, IN PARTICULAR, COMPLAINANTS WE HAVE SPOKEN TO, HAVE INDICATED A RELUCTANCE TO COME FORWARD IF IT MEANT THAT THEY WOULD HAVE TO TESTIFY PUBLICLY. THE IMPACT UPON ANY WITNESS OF THE KNOWLEDGE THAT HE IS BEING HEARD BY A VAST AUDIENCE IS SIMPLY INCALCULABLE. SOME MAY BE DEMORALIZED AND FRIGHTENED, SOME COCKY AND GIVEN TO OVER STATEMENT; MEMORIES MAY FALTER, AS WITH ANYONE SPEAKING PUBLICLY, AND ACCURACY OF STATEMENT MAY BE SEVERELY UNDERMINED. EMBARRASSMENT MAY IMPEDE THE SEARCH FOR THE TRUTH AS MAY A NATURAL TENDENCY TOWARD OVERDRAMATIZATION. IT IS DIFFICULT FOR CIVILIAN WITNESSES TO COME FORWARD TO MAKE ALLEGATIONS ABOUT POLICE IMPROPRIETY UNDER THE BEST OF CIRCUMSTANCES AND WE DO NOT WISH TO INHIBIT OR PRECLUDE ANYONE WHO MAY HAVE ANY RELEVANT EVIDENCE FROM COMING FORWARD.

ANOTHER CONSIDERATION IS THAT THE RULE REGARDING EXCLUSION OF WITNESSES MAY BE FRUSTRATED. IF A SUGGESTIBLE WITNESS SEES OR HEARS AN EARLIER WITNESS ON TELEVISION OR ON RADIO, THE INTEGRITY OF HIS OR HER TESTIMONY MAY BE SUBVERTED.

INDEED, A FAIR WITNESS MAY BECOME INVOLVED IN A NEGATIVE ASSESSMENT OF HIS OR HER OWN RECOLLECTION SIMPLY BECAUSE OF EXPOSURE TO A DIFFERENT ONE.

WE ARE MOST ANXIOUS TO PROCEED CAUTIOUSLY BUT CONSTRUCTIVELY. WE VIEW THIS INQUIRY AND INVESTIGATION AS INDEED, WE VIEW THE ENTIRE PILOT PROJECT OPERATION OF OUR OFFICE, IN A POSITIVE AND CONSTRUCTIVE MANNER. THIS PROJECT PROVIDES THE MEANS AND AN OPPORTUNITY WHEREBY RELATIONS BETWEEN THE POLICE AND THE COMMUNITY IT SERVES MAY BE IMPROVED. MORE OPENESS AND UNDERSTANDING OF THE PROCEDURES INVOLVED WILL, IN THE LONG RUN, CONTRIBUTE TO A BETTER ATMOSPHERE FOR POLICE/COMMUNITY RELATIONS. THE PROCEDURE IS ALSO AN OPPORTUNITY TO PROCEED FAIRLY AND OPENLY AGAINST ANY PARTICULAR POLICE OFFICERS AGAINST WHOM THERE APPEARS TO BE SUFFICIENT EVIDENCE OF MISCONDUCT.

MY DECISION IN THIS CASE IS NOT MEANT TO MAKE ANY GENERAL RULES OR TO BIND US IN THE FUTURE. THE DEBATE REGARDING THE EXTENT TO WHICH THE MEDIA SHOULD HAVE ACCESS TO COURTROOMS AND TO HEARING PROCEEDINGS IN GENERAL WILL CONTINUE FOR YEARS TO COME AS THE STATE OF THE ART DEVELOPS. ALREADY ONE MEMBER OF OUR PANEL HAS ALLOWED CAMERAS INTO A HEARING WHILE ANOTHER HAS ALLOWED LIMITED ACCESS. EACH CASE MUST DEPEND ON ITS OWN SPECIAL CIRCUMSTANCES. WE WANT THE MAXIMUM PUBLIC INVOLVEMENT CONSISTENT WITH A FAIR INQUIRY.

IN THIS PARTICULAR INQUIRY I HAVE DECIDED THAT THE PUBLIC AND THE MEDIA WILL HAVE FREE ACCESS TO THE INQUIRY TO COME AND GO AS THEY PLEASE AND TO REPORT WHATEVER THEY FEEL TO BE OF INTEREST TO THE PUBLIC AS LONG AS THEY DO NOT DETRACT FROM THE DIGNITY OF THE PROCEEDINGS OR DISTRACT ANY OF THE WITNESSES OR PARTICIPANTS.

HOWEVER, I FEEL THAT I MUST PLACE TWO CONDITIONS ON THIS AS FOLLOWS:

1. THERE SHALL BE NO PHOTOGRAPHS, MOTION PICTURES, VIDEO OR AUDIO TAPE OR OTHER RECORD CAPABLE OF RECONSTRUCTING VISUAL OR AUDIO REPRESENTATION BY ELECTRONIC MEANS WHILE WITNESSES ARE TESTIFYING.

2. IN ORDER TO PROTECT ALL WITNESSES AND POSSIBLE SUBJECT OFFICERS, NO NAMES MAY BE PUBLISHED IN ANY WAY. AS I HAVE ALREADY STATED, IF ANY CHARGES ARE LAID OR HEARINGS RESULT FROM THIS INQUIRY, THE NAMES OF PERSONS AFFECTED WILL BE AVAILABLE IN THE USUAL WAY.

I KNOW THAT MEMBERS OF THE MEDIA ARE AWARE OF THE UNIQUENESS OF THESE PROCEEDINGS AND WILL UNDERSTAND AND APPRECIATE THEIR DELICATE AND SENSITIVE NATURE AND WILL SUPPORT US IN OUR EFFORTS TO CONDUCT A FAIR INQUIRY.

WE WILL NOW HAVE A SHORT RECESS AFTER WHICH WE WILL CALL OUR FIRST WITNESS. THANK YOU VERY MUCH.

OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER

STATEMENT OF

PUBLIC COMPLAINTS COMMISSIONER

SIDNEY B. LINDEN, Q.C.

RE: INCIDENT AT 535 MORRISH ROAD
MAY 29/30, 1982

THURSDAY JANUARY 20TH, 1983.

At the outset of this inquiry into the incident which occurred at 535 Morrish Road on May 29, I made a statement indicating that the inquiry would be public except for the fact that there will be no cameras or electronic devices during witness testimony and no publication of names. It should be clear that I was referring to an inquiry and investigation under our Act when I made that statement. I was not referring to Police Complaints Board hearings. Police Complaints Board hearings, which are also conducted under our Act have been public, are public and will continue to be public. The extent to which they are public is, of course, up to each Chairman in each particular case. This distinction between an inquiry, which is an extension of an investigation and a hearing is very significant. (While there are obvious differences, some comparison can be made with the situation that exists at a preliminary inquiry which is held to determine if there is sufficient evidence to proceed to trial. A preliminary inquiry is public, but the criminal code provides that an application can be made for the non-publication of evidence).

Counsel for the Metropolitan Toronto Legal Department, representing the Metropolitan Toronto Police Force, made a very strong argument to the effect that not only am I precluded from conducting this inquiry in public, but that to do so is in violation of section 22 of our Act and thereby renders me liable to be charged

WITH AN OFFENCE UNDER SECTION 25 OF OUR ACT AND, IF CONVICTED, LIABLE TO A FINE OF NOT MORE THAN $2,000. HE ARGUED THAT THIS INQUIRY SHOULD BE SECRET AND SUBMITTED HIS REASONS THEREFOR.

COUNSEL FOR THE GLOBE & MAIL AND FOR THE CBC, ON THE OTHER HAND, SUBMITTED THAT ONCE A DECISION HAS BEEN MADE TO CONDUCT AN INQUIRY IN PUBLIC, THERE IS NO RATIONALE FOR ANY LIMITATIONS. THEIR ARGUMENT WAS THAT THE INQUIRY SHOULD EITHER BE TOTALLY PUBLIC INCLUDING CAMERAS WHILE WITNESSES ARE TESTIFYING AND NAMES OF WITNESSES PUBLISHED, OR TOTALLY PRIVATE.

I HAVE CAREFULLY CONSIDERED THESE RESPECTIVE SUBMISSIONS AND HAVE REVIEWED MY ORIGINAL STATEMENT.

AS METROPOLITAN TORONTO'S FIRST PUBLIC COMPLAINTS COMMISSIONER I AM RESPONSIBLE FOR ADMINISTERING AN EXPERIMENTAL, NOVEL AND CONTROVERSIAL PIECE OF LEGISLATION. IT IS IMPORTANT TO REMEMBER THAT THE LEGISLATION CREATES A PILOT PROJECT CONFINED TO METROPOLITAN TORONTO FOR A THREE YEAR PERIOD. THIS EXPERIMENT WILL BE EVALUATED IN THE PUBLIC ARENA AT THAT TIME. IT IS NOT SURPRISING THAT ALL THE SECTIONS AND PROVISIONS IN THE LEGISLATION ARE NOT SPELLED OUT IN GREAT DETAIL. IT IS FOR THOSE OF US WHO ARE CHARGED WITH THE RESPONSIBILITY OF ADMINISTERING

THIS ACT TO BREATHE LIFE INTO IT. WITH THE EXCEPTION OF ROYAL COMMISSIONS, WHICH ARE SET UP FOR A PARTICULAR LIMITED OBJECTIVE AND WHICH ARE TEMPORARY, INQUIRIES AND INVESTIGATIONS OF THE SORT WE ARE ABOUT TO EMBARK UPON HAVE GENERALLY AND TRADITIONALLY BEEN DONE COMPLETELY IN PRIVATE.

IT IS MY VIEW THAT THE WHOLE OBJECT OF THIS NEW LEGISLATION WAS TO OPEN UP THE PROCEDURE. THAT IS CLEARLY THE UNDERLYING PHILOSOPHY OF THE ACT. SINCE OUR ACT WAS PROCLAIMED, WRITTEN INVESTIGATIVE REPORTS ARE PROVIDED TO THE COMPLAINANT, THE POLICE OFFICER AS WELL AS TO OUR OFFICE, REGULARLY. A FINAL INVESTIGATION REPORT, IN WRITING, IS ALSO MADE AVAILABLE TO THESE SAME PARTIES. THE CHIEF OR HIS NOMINEE NOW MUST MAKE A DECISION, REGARDING THE DISPOSITION OF THE COMPLAINT AND IT MUST BE IN WRITING AND DISTRIBUTED TO THE PARTIES. THIS KIND OF OPENESS AND ACCESSIBILITY TO INFORMATION IS UNPRECEDENTED AND UNPARALLELLED IN ANY OF THE OTHER JURISDICTIONS THAT WE HAVE STUDIED.

A CITIZEN WHO IS NOT SATIFIED IS ENTITLED TO REQUEST A REVIEW AND THAT REVIEW IS CONDUCTED BY A TOTALLY INDEPENDENT AGENCY WHICH HAS BROAD POWERS. AT THE CONCLUSION OF OUR CIVILIAN REVIEW, THE CITIZEN AND THE OFFICER RECEIVE A WRITTEN INVESTIGATION REPORT WITH CONCLUSIONS. IF I, AS COMMISSIONER, DEEM IT IN THE PUBLIC INTEREST, I HAVE THE

POWER TO ORDER A FULL SCALE PUBLIC HEARING. THE PANEL CONDUCTING THE HEARING MAY IMPOSE PENALTIES DIRECTLY ON THE OFFICER IF THEY MAKE A FINDING OF MISCONDUCT, RANGING FROM A MILD REPRIMAND TO DISMISSAL FROM THE FORCE.

THIS INQUIRY IS SOMETHING SEPARATE AND APART FROM THAT MAIN STREAM HANDLING OF A COMPLAINT WHICH I HAVE JUST OUTLINED. AN INQUIRY OF THIS SORT IS ONLY ONE OF THE INVESTIGATIVE OPTIONS AVAILABLE UNDER THE ACT AND IT DEMONSTRATES THE FLEXIBILITY AND RANGE OF THE NEW PROCEDURE.

THE GUIDELINES PROVIDING FOR THIS TYPE OF AN INQUIRY ARE VAGUE AND TO A LARGE EXTENT, LEFT TO THE DISCRETION OF THE COMMISSIONER. COUNSEL FOR THE POLICE FORCE'S SUBMISSIONS ARE CORRECT WHEN HE STATES THAT THERE IS NO REQUIREMENT TO CONDUCT THIS INQUIRY IN PUBLIC. HE ALSO STATED THAT IT MAKES "COMMON SENSE" TO DO IT IN PRIVATE. WITH GREAT RESPECT, I CANNOT AGREE.

IT IS MY FIRM BELIEF THAT IT SHOULD BE IN PUBLIC. I THINK IN THIS CASE IT SHOULD BE AS PUBLIC AS POSSIBLE, CONSISTENT WITH PROTECTING INDIVIDUAL RIGHTS. HOWEVER, IF COMPLAINANTS THOUGHT THAT MAKING A COMPLAINT ABOUT THE POLICE MIGHT RESULT IN THEIR BEING COMPELLED TO TESTIFY PUBLICLY THEN THEY COULD BE SEVERELY INHIBITED. ONE

OF THE OBJECTIVES OF THIS PUBLIC INQUIRY, AS EVIDENCED BY THE NOTICES THAT WERE PUBLISHED IN THE NEWSPAPERS IS TO, HOPEFULLY, ENCOURAGE WITNESSES WHO HAVE RELEVANT EVIDENCE TO COME FORWARD. WE HAVE HAD SOME SUCCESS IN THAT REGARD. HOWEVER, AT LEAST TWO COMPLAINANTS IN THIS MATTER WITHDREW THEIR COMPLAINTS WHEN IT WAS SUGGESTED THAT THEY MIGHT HAVE TO TESTIFY IN PUBLIC. THAT IS NOT IN THE LONG RANGE BEST INTERESTS OF THE SUCCESS OF THIS PROJECT. THE POWER TO SUBPOENA WITNESSES IS OF NO VALUE UNLESS YOU KNOW THE IDENTITY OF THE WITNESSES. WHILE WE DO KNOW MANY OF THE WITNESSES IN THIS MATTER AND ALL WITNESSES WHO TESTIFY HAVE BEEN SUBPOENAED, IT IS OUR VIEW THAT THERE COULD BE MANY POTENTIAL WITNESSES THAT WE ARE NOT AWARE OF.

AS COMMISSIONER, I AM NOT ONLY INTERESTED IN THIS PARTICULAR INCIDENT, I AM ALSO INTERESTED IN DEVELOPING A PROCEDURE IN WHICH THE PUBLIC HAS CONFIDENCE, THAT HAS PERMANENCE AND THAT ENDURES BEYOND THIS PARTICULAR INQUIRY. THEREFORE, I MUST BE CONSCIOUS OF NOT CREATING AN ATMOSPHERE WHERE COMPLAINANTS WILL BE TIMID OR RELUCTANT TO COME FORWARD.

I MUST ALSO BE CONSCIOUS OF THE RIGHTS OF INDIVIDUAL POLICE OFFICERS. POLICE OFFICERS HAVE THE SAME RIGHTS AS ANY OTHER CITIZEN AND IT IS SIMPLY NOT FAIR TO HAVE ANYONE NAMED OR ACCUSED IN PUBLIC WITHOUT AN OPPORTUNITY TO IMMEDIATELY CONFRONT THE ACCUSER. I REPEAT AGAIN, IF SUFFICIENT EVIDENCE BECOMES AVAILABLE DURING THE COURSE OF THIS INQUIRY, THEN CRIMINAL CHARGES OR POLICE COMPLAINTS BOARD HEARINGS MAY RESULT. AT THAT TIME, ACCUSER AND ACCUSED HAVE AN OPPORTUNITY TO CONFRONT EACH OTHER IN A PUBLIC FORUM.

HAVING SAID ALL THAT, MY DECISION IN THIS CASE IS THAT WE ARE GOING TO PROCEED WITH THIS INQUIRY ACCORDING TO THE GENERAL GROUND RULES THAT I OUTLINED IN MY OPENING STATEMENT. IN MY VIEW THIS DOES NOT INHIBIT THE MEDIA OF THE RIGHT TO INFORM THE PUBLIC IN ANY WAY. THE MEDIA CAN DESCRIBE A WITNESS AS "A 17 YEAR OLD YOUTH TESTIFIED" AND THEN PROVIDE A VERBATIM REPORT OR A SYNOPSIS OF WHAT THE WITNESS SAID, AS THE MEDIA DECIDES. THE MEDIA CAN FULLY REPORT ALL THE EVIDENCE THAT IS HEARD AT THIS INQUIRY.

THE PROCEDURES THAT I PROPOSE TO FOLLOW IN THIS CASE ARE A DRAMATIC DEPARTURE FROM THE PRIVATE INHOUSE INVESTIGATIONS OF THE PAST. THEY REPRESENT A SIGNIFICANT ENLARGEMENT OF MEDIA ACCESS AND ENABLES THEM TO INFORM THE PUBLIC

AS THEY WERE UNABLE TO IN THE PAST.

I ALSO BELIEVE THAT IT STRIKES A FAIR BALANCE BETWEEN THE VARIOUS COMPETING INTERESTS.

I NOW PROPOSE TO CALL OUR FIRST WITNESS.

OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER

RE: INCIDENT AT 535 MORRISH ROAD
May 29/30, 1982

STATEMENT OF
PUBLIC COMPLAINTS COMMISSIONER,
SIDNEY B. LINDEN, Q.C.

Wednesday, April 13th, 1983.

Following an incident which occurred at 535 Morrish Road in Scarborough on May 29th, 1982, a number of people complained about police misconduct. In accordance with the new procedure established under The Metropolitan Police Force Complaints Project Act, 1981, some of those people complained to the police force while others complained to my Office. The investigation by the police into those complaints commenced immediately.

Over 100 witnesses including police officers and citizens were interviewed, many photographs and scale drawings were prepared and the video tape of part of the incident made by CITY-TV was examined.

The results of the police investigation were forwarded to the complainants as well as to my Office. The investigation was also reviewed by local Crown Attorneys who decided that the available evidence was not sufficient to justify laying any criminal charges.

On August 12, 1982, Chief Ackroyd asked my Office to conduct an independent investigation. Our investigation included a review of the police investigation as well as interviews of a number of other witnesses, both police and civilian.

In November 1982, the results of our investigation, up to that point in time, together with the results of the earlier police investigation, were reviewed by senior Crown Law officers and by senior officers from the Metropolitan Toronto Police Force. They decided that the available evidence was insufficient to lay either Criminal Code or Police Act charges.

SHORTLY THEREAFTER, I DECIDED THAT IT WAS IN THE PUBLIC INTEREST TO CONTINUE MY INVESTIGATION IN A MORE PUBLIC WAY. AS A RESULT, DURING THE MONTHS OF JANUARY AND FEBRUARY, 1983, 53 WITNESSES, BOTH CIVILIANS AND POLICE OFFICERS, WERE EXAMINED, UNDER OATH AND IN PUBLIC.

THERE IS SOME CONFUSION AS TO HOW MY PUBLIC INVESTIGATION FITS INTO THE FRAMEWORK OF THE NEW COMPLAINT SYSTEM. I THINK IT IS IMPORTANT TO STRESS AT THIS TIME THAT, UNDER THE NEW LEGISLATION, MY OFFICE CAN CONDUCT TWO TYPES OF INVESTIGATION.

THE FIRST TYPE OF INVESTIGATION FORMS PART OF THE "INITIAL INVESTIGATION" INTO A CITIZEN COMPLAINT. THE RESULT OF THIS INVESTIGATION IS FORWARDED TO THE CHIEF OF POLICE AND IS CONSIDERED BY HIM WHEN HE MAKES HIS DECISION WHETHER OR NOT TO TAKE DISCIPLINARY ACTION AGAINST AN OFFICER.

THE SECOND TYPE OF INVESTIGATION OCCURS ONLY AFTER THE CHIEF HAS MADE THIS DECISION AND THE COMPLAINANT, IF NOT SATISFIED, REQUESTS MY OFFICE TO CONDUCT A REVIEW. IT IS THIS "REVIEW INVESTIGATION" THAT I CONSIDER IN DECIDING WHETHER OR NOT IT IS IN THE PUBLIC INTEREST TO CONVENE A HEARING BEFORE THE POLICE COMPLAINTS BOARD.

THE INVESTIGATION THAT I HAVE UNDERTAKEN IN RESPECT OF THE MORRISH ROAD INCIDENT FALLS INTO THE FORMER CATEGORY, THAT IS, AN "INITIAL INVESTIGATION".

IT IS NOT MY FUNCTION, NOR DO I HAVE THE JURISDICTION, TO ANALYSE THE EVIDENCE AT THIS STAGE OF THE PROCEDURE. AT THIS STAGE THE CHIEF MUST ANALYSE ALL OF THE EVIDENCE AND DECIDE EACH OF THE COMPLAINTS. HE MUST THEN COMMUNICATE THAT DECISION, IN WRITING, TO EACH OF THE COMPLAINANTS.

ACCORDINGLY, I HAVE NOW FORWARDED TO THE CHIEF THE RESULTS OF MY INVESTIGATION IN THIS MATTER WHICH INCLUDES SUMMARIES OF ALL THE EVIDENCE WHICH WAS GIVEN UNDER OATH, IN PUBLIC.

ORDINARILY, AT THIS TIME, IT WOULD BE INAPPROPRIATE FOR ME, AS PART OF AN "INITIAL INVESTIGATION" TO DO ANYTHING OTHER THAN FORWARD THE RESULTS OF MY INVESTIGATION TO THE CHIEF. IT MUST BE REMEMBERED THAT IT IS STILL OPEN TO ANY COMPLAINANT WHO IS NOT SATISFIED WITH THE CHIEF'S DECISION TO REQUEST THAT MY OFFICE CONDUCT A REVIEW.

HOWEVER, BECAUSE OF THE UNIQUE WAY IN WHICH THIS INCIDENT HAS BEEN INVESTIGATED AND BECAUSE OF THE PUBLIC INTEREST THAT HAS BEEN GENERATED SINCE THE INCIDENT OCCURRED, I PROPOSE TO COMMENT IN A GENERAL WAY AND TO MAKE RECOMMENDATIONS WHICH, IN MY VIEW, WILL NOT AFFECT THE CHIEF'S ABILITY TO DECIDE EACH CASE INDIVIDUALLY.

BACKGROUND

ON SATURDAY, MAY 29TH, 1982, DURING THE EARLY EVENING HOURS, A PARTY BEGAN AT 535 MORRISH ROAD, SCAROBOURGH. THIS ADDRESS IS A TWO BEDROOM BUNGALOW OWNED BY ST. ANNE'S UKRANIAN ORTHODOX CHURCH AND OCCUPIED BY THREE TENANTS WHO HAD BEEN GIVEN NOTICE TO VACATE BY THE LANDLORD.

THE PARTY HELD AT THIS LOCATION ON THIS DATE WAS A COMBINED BIRTHDAY AND LEASE TERMINATION PARTY WHICH ATTRACTED AN ESTIMATED 300 TO 500 PEOPLE. THERE WAS LIVE MUSIC BEING PLAYED, A LARGE QUANTITY OF ALCOHOLIC BEVERAGES AVAILABLE, APPARENTLY SOME MARIJUANA AVAILABLE AND A BONFIRE IN THE BACKYARD, OVER THE COURSE OF THE EVENING.

COMPLAINTS WERE MADE BY NEIGHBOURS TELEPHONING THE POLICE RADIO ROOM AND POLICE OFFICERS ATTENDED ON AT LEAST TWO OCCASIONS WHILE THE PARTY WAS STILL IN ITS INITIAL STAGES TO ADVISE THOSE PRESENT TO KEEP THE NOISE LEVEL DOWN. NOTHWITHSTANDING THIS ADVICE, THERE WERE STILL COMPLAINTS RECEIVED AT THE POLICE RADIO ROOM.

AS THE NUMBER OF PEOPLE AT THE PARTY INCREASED, SO DID THE NUMBER OF POLICE PERSONNEL ASSIGNED TO LOOK INTO THE INCIDENT. BY THE EARLY HOURS OF SATURDAY, MAY 30TH, 1982, THERE WERE 53 POLICE PERSONNEL IN ATTENDANCE. THREE OF THE POLICE PERSONNEL WERE SUPERVISORY, CONSISTING OF TWO SERGEANTS AND ONE INSPECTOR. BY THIS TIME, THERE HAD BEEN APPROXIMATELY 16 COMPLAINTS MADE TO THE POLICE RADIO ROOM CONCERNING THE CONDUCT OF THE PARTY.

POLICE PERSONNEL WERE INSTRUCTED TO PATROL THE AREA AND TO TAKE ACTION ONLY IN RESPECT OF VIOLATIONS OFF THE PROPERTY OF 535 MORRISH ROAD. SOME POLICE OFFICERS ATTENDED AT THE NEARBY CHURCH AND ESCORTED PEOPLE WHO WERE AT A CHURCH FUNCTION AWAY FROM THE SCENE. TWO POLICE CARS WERE PARKED ON THE STREET AT THE SOUTH END OF THE PROPERTY WITH THEIR HEADLIGHTS FACING THE FRONT LAWN OF THE PROPERTY, IN ORDER TO ADD ILLUMINATION TO THE SCENE. OFFICERS WERE INSTRUCTED TO CORDON OFF THE AREA IN ORDER TO PREVENT FURTHER PEOPLE FROM ATTENDING OR RETURNING TO THE PARTY. THESE OFFICERS WERE INSTRUCTED NOT TO ENTER ONTO THE PROPERTY ITSELF AS THE SENIOR SUPERVISORY OFFICER DECIDED UPON A NON-CONFRONTATIONAL APPROACH.

From approximately 12:30 a.m. to 2:30 a.m. attempts were made, including the use of a loud hailer, to have party goers leave and, gradually, the size of the party diminished. During this time, party goers on the front lawn of the property were, from time to time, hurling beer bottles in the direction of the police officers and directing insults and verbal abuse at the officers. Some police officers, who were stationed by the church, were also subjected to the same kind of behaviour.

At approximately 2:30 a.m., it began to rain and this disbursed many of the remaining party goers away from the scene or into the house itself, so that at that time there were very few, if any, people on the front lawn of 535 Morrish Road.

At about this time, two police constables who had been standing to the north of the house on the street, observed three males on the front porch of 535 Morrish Road throw beer bottles in their direction and one of the bottles apparently hit one of the officers standing nearby. This prompted these two officers to enter onto the property in order to effect an arrest of these youths. By the time that the officers reached the front porch, the youths had gone into the house and so the officers followed. These actions prompted a number of other officers to rush onto the property and into the house in order to assist the first two officers. These assisting officers were not clear at that time as to why the first two officers entered into the property, however, it was their opinion that they should come to their aid in view of the events which had transpired throughout the evening.

THE COMPLAINTS THAT WERE FILED CONCERNING THIS INCIDENT MAINLY CONCERN ALLEGATIONS OF ASSAULT AND DAMAGE TO PROPERTY, BOTH WITHIN AND OUTSIDE OF THE HOUSE ITSELF. VIRTUALLY ALL OF THE COMPLAINTS SPEAK TO THAT PERIOD OF TIME FOLLOWING THE INITIAL ENTRY INTO THE HOUSE BY THESE TWO OFFICERS. MANY OF THE COMPLAINTS ALLEGE ASSAULTS CAUSED BY POLICE OFFICERS USING BILLY STICKS OR DEFENDER BATONS.

ONCE THE OFFICERS ENTERED THE HOUSE, IT TOOK A VERY SHORT TIME FOR ALL OF THE PARTY GOERS INSIDE THE HOUSE TO LEAVE THE HOUSE ITSELF AND THE GENERAL VICINITY OF THE PROPERTY.

PART OF THE DISPERSAL OF PARTY GOERS FROM THE HOUSE WAS VIDEO TAPED BY A CITY-TV CAMERAMAN AND THAT VIDEO TAPE HAS BEEN VIEWED BY EVERY WITNESS WHO ATTENDED THE PUBLIC INVESTIGATION AND EVERY WITNESS INTERVIEWED AT MY OFFICE.

GENERAL COMMENTS

THE CITY-TV VIDEO TAPE CLEARLY SHOWS THAT SEVERAL OFFICERS WERE ON THE FRONT LAWN OF THE PROPERTY AS PARTY GOERS WERE LEAVING AND THAT SOME OF THESE OFFICERS WERE USING THEIR BATONS IN AN INDISCRIMINATE MANNER TO STRIKE SOME OF THE PARTY GOERS WHO WERE RUNNING FROM THE AREA. THE OFFICERS WERE NOT, AT THAT PARTICULAR MOMENT, DEFENDING THEMSELVES FROM BEING ASSAULTED NOR WERE THEY ATTEMPTING TO MAKE AN ARREST. ONE OFFICER IS SEEN KICKING OUT AT SEVERAL INDIVIDUALS. ANOTHER OFFICER IS SEEN DRAGGING SOMEONE WHO WAS ON ALL FOURS, STRIKING HIM WITH HIS BATON AND KICKING HIM AND OTHER OFFICERS CAN BE SEEN SWINGING THEIR BATONS AT INDIVIDUALS.

THE BEHAVIOUR OF THESE OFFICERS IS SHOCKING.

THE VIDEO TAPE IS CERTAINLY HELPFUL IN PROVIDING AN ACCOUNT OF THESE EVENTS. HOWEVER, IT DID NOT ALLEVIATE THE MAJOR PROBLEM IN MY INVESTIGATION -- THE IDENTIFICATION OF OFFENDING OFFICERS. FOR THE MOST PART, WHEN OFFICERS ARE SEEN ON THE TAPE STRIKING PEOPLE, ONLY THEIR BACKS OR THEIR PROFILES ARE TO THE CAMERA, OR THEY ARE IN THE BACKGROUND OF THE PICTURE. AS EACH WITNESS VIEWED THE VIDEO TAPE IT WAS STOPPED, FROM TIME TO TIME, AT APPROPRIATE PLACES, IN ORDER TO ASSIST IDENTIFICATION.

IT IS INTERESTING TO NOTE THAT SOME OFFICERS -- THOSE WHO APPEAR ON THE VIDEO TAPE IN NON-CONTROVERSIAL ACTIVITIES -- WERE IDENTIFIED BY THEMSELVES OR THEIR COLLEAGUES EVEN THOUGH THEY ARE IN THE BACKGROUND OR WITH THEIR BACKS PARTIALLY TO THE CAMERA. REMARKABLY, HOWEVER, NO POLICE WITNESSES IDENTIFIED OFFICERS IN THE ACT OF STRIKING ANY CIVILIAN COMPLAINANTS EITHER FROM THE VIDEO TAPE OR FROM THEIR RECOLLECTION OF EVENTS AT THE SCENE.

THERE WERE TWO OFFICERS IDENTIFIED ON THE VIDEO TAPE WHOSE ACTIONS APPEAR TO BE IMPROPER. ONE OFFICER IS SEEN TO MOVE HIS BATON IN THE DIRECTION OF A CIVILIAN BUT THE BATON FALLS TO THE GROUND AND IT IS NOT CLEAR WHETHER CONTACT WAS MADE. THIS OFFICER STAYS IN FULL VIEW OF THE CAMERA AFTER THIS INCIDENT, DOING NOTHING IMPROPER WHATSOEVER. THE OTHER OFFICER IS SEEN STRIKING THE SAME CIVILIAN, A SHORT TIME LATER, WITH HIS BATON.

THE CIVILIAN INVOLVED IN THIS INCIDENT DID NOT FILE A COMPLAINT. THEREFORE, ALTHOUGH I HAVE NO JURISDICTION OVER THE MATTER, I INTEND TO REPORT ON THIS SEPARATELY TO CHIEF ACKROYD.

THE POLICE INVESTIGATORS WHO SEIZED THE VIDEO TAPE AS EVIDENCE ON JUNE 2, 1982, SENT A COPY OF THE TAPE TO DR. J. F. BOULTER, DEFENCE RESEARCH ESTABLISHMENT, VALCARTIER, QUEBEC, ON JUNE 7TH, 1982. DR. BOULTER ATTEMPTED TO ENHANCE THE VIDEO TAPE AND GET MORE DETAIL, SHARPNESS AND CLARITY SO THAT INDIVIDUAL OFFICERS COULD BE MORE EASILY IDENTIFIED. HOWEVER, DUE TO THE POOR QUALITY, POOR LIGHTING AND RAIN INTERFERENCE, HE WAS UNABLE TO PRODUCE A BETTER REPRODUCTION. ON AUGUST 4TH, 1982, POLICE INVESTIGATORS ATTENDED CFTO PRODUCTIONS LIMITED AND AN ENHANCED, ENLARGED VERSION OF THE VIDEO TAPE WAS MADE TO ASSIST IN IDENTIFYING THE OFFICERS. STILL PHOTOGRAPHS WERE ALSO TAKEN FROM THE TAPE. THIS APPROACH WAS ALSO UNABLE TO PRODUCE A BETTER REPRODUCTION.

AN INVESTIGATOR FROM MY OFFICE WENT TO BOSTON, MASSACHUSETTS WITH A COPY OF THE VIDEO TAPE. THE OPTICAL DIVISION, ITEK CORPORATION, WHICH ASSISTS IN THE ANALYSIS OF SPACE PHOTOGRAPHY, WAS CONSULTED. THEY ENCOUNTERED THE SAME DIFFICULTIES REGARDING THE QUALITY OF THE TAPE WHEN IT WAS SUBJECTED TO A NUMBER OF TESTS INCLUDING A COMPUTER ANALYSIS. AN ATTEMPT WAS MADE TO CLARIFY THE IDENTIFICATION NUMBERS WORN ON THE SHOULDERS OF THE OFFICERS' SHIRTS, BUT THIS WAS NOT POSSIBLE.

CERTAINLY THE VIDEO TAPE SUPPORTS THE ALLEGATIONS OF SEVERAL OF THE COMPLAINANTS THAT THEY WERE IMPROPERLY ASSAULTED BY POLICE OFFICERS AS THEY RAN AWAY FROM THE HOUSE. IT IS ALSO QUITE APPARENT THAT THESE POLICE OFFICERS WERE NOT USING THEIR BATONS IN A MANNER CONSISTENT WITH THE TRAINING RECEIVED AT THE C.O. BICK POLICE COLLEGE.

INVESTIGATORS FROM MY OFFICE HAVE RECENTLY REVIEWED THIS TRAINING PROGRAM AND FOUND IT TO BE SATISFACTORY. AS A RESULT OF THIS INCIDENT, SOME OF THE TRAINING PROCEDURES HAVE BEEN AMENDED TO INCLUDE TWO PERIODS OF INSTRUCTION FOR SUPERVISORY PERSONNEL REGARDING CROWD CONTROL AND THE DEPLOYMENT OF OFFICERS WHO MAY BE REQUIRED TO USE THEIR BATONS. ALSO, THE CONSTABLE IN-SERVICE PROGRAM NOW CONTAINS TWO PERIODS DEVOTED TO A REVIEW OF THE BATON TRAINING COURSE WITH ACCENT ON THE EXERCISE OF DISCRETION BY OFFICERS USING THEIR BATON.

REGARDING SUPERVISION THAT WAS GIVEN TO OFFICERS AT THE SCENE OF THE INCIDENT, WE FOUND IT TO BE SUBSTANTIALLY IN ACCORD WITH POLICE OPERATIONAL PROCEDURES. THE SIZE OF THE PARTY HAD DIMINISHED WITHOUT ANY MAJOR INCIDENT AND IT WOULD APPEAR THAT THE POLICE PERSONNEL WERE IN CONTROL OF A VERY DIFFICULT SITUATION.

THE ACTIONS OF THE TWO OFFICERS WHO DECIDED TO ENTER UPON THE PROPERTY TO EFFECT AN ARREST LED TO THE INCIDENT GETTING OUT OF HAND. THESE OFFICERS INDICATED AT THE PUBLIC INVESTIGATION THAT THE PERSONS THROWING THE BOTTLES AT THEM COULD BE IDENTIFIED AND THAT THIS WAS THE FIRST TIME THAT THEY WERE ABLE TO IDENTIFY ANY OF THE PERSONS WHO HAD BEEN THROWING BOTTLES AT THEM THAT EVENING. THEREFORE, THEY DECIDED THAT THEY WOULD BE JUSTIFIED IN ATTEMPTING TO EFFECT AN ARREST. THE INSPECTOR IN CHARGE OF THE INCIDENT INDICATED AT THE PUBLIC INVESTIGATION THAT HIS GENERAL INSTRUCTIONS TO THE OFFICERS AT THE SCENE WAS TO STAND BY

AND NOT ENTER UPON THE PROPERTY. HOWEVER, HE FELT THAT THIS DID NOT PRECLUDE THE ACTIONS OF THE TWO OFFICERS WHO EXERCISED THEIR INDEPENDENT JUDGMENT ACCORDING TO THE CHANGED CIRCUMSTANCES AS THEY SAW THEM.

IN HINDSIGHT, IT IS REGRETTABLE THAT THESE TWO OFFICERS DECIDED TO ENTER ONTO THE PROPERTY AT THAT PARTICULAR TIME. HOWEVER, IT IS FAR EASIER FOR ME TO SIT BACK AT THIS TIME AND COME TO THAT CONCLUSION AFTER THOUGHTFUL REFLECTION THAN FOR THE OFFICERS, ON THE SPUR OF THE MOMENT, TO APPRECIATE THE POTENTIAL HARM THAT COULD RESULT FROM THEIR ACTIONS. I AM CONCERNED AND CAN PERCEIVE OF FAR MORE VOLATILE AND DANGEROUS SITUATIONS THAN EXISTED ON THIS OCCASION WHERE IT WOULD BE SEVERELY DETRIMENTAL FOR OFFICERS TO EXERCISE INDEPENDENT JUDGMENT. WHILE OFFICERS MAY BE EXPECTED TO ACT INDEPENDENTLY IN MOST SITUATIONS, WHEN THEY ARE PART OF A LARGER OPERATION, THEY SHOULD MAKE EVERY EFFORT TO CONFER WITH A SUPERVISOR BEFORE TAKING INDEPENDENT ACTION.

THIS INCIDENT TOOK PLACE ON A HOLIDAY WEEK-END AND, AS A RESULT, MANY SUPERVISORY PERSONNEL WERE OFF DUTY. I BELIEVE THAT THERE SHOULD HAVE BEEN MORE THAN THREE SUPERVISORY OFFICERS AT THE SCENE. IT IS POSSIBLE THAT THE ACTIONS OF THESE TWO OFFICERS COULD HAVE BEEN AVOIDED IF THERE HAD BEEN SUFFICIENT SUPERVISORY PERSONNEL TO PROVIDE CLOSER DIRECTION.

SEVERAL OFFICERS TESTIFIED THAT THEY REMOVED THEIR CAPS AND THUS, THEIR MOST PROMINENT IDENTIFICATION BADGES, BECAUSE THEY FEARED THAT IF THEY WERE LOST, THEY WOULD HAVE TO REPLACE

THEM AT THEIR OWN COST. I UNDERSTAND THAT THE OFFICERS WERE MISTAKEN IN THIS REGARD AND THAT IN THIS, OR SIMILIAR OCCURRENCES, LOST OR DAMAGED EQUIPMENT WILL BE REPLACED BY THE FORCE.

ALL OFFICERS SHOULD BE REMINDED THAT EQUIPMENT LOST OR DAMAGED IN THE COURSE OF PERFORMING THEIR DUTIES, INCLUDING THEIR CAPS, WILL BE REPLACED AND ACCORDINGLY, THEY SHOULD BE INSTRUCTED TO WEAR THEIR CAPS AND CAP IDENTIFICATION BADGE AT ALL TIMES WHEN DEALING WITH THE PUBLIC.

THE EVIDENCE REGARDING PROPERTY DAMAGE IS LARGELY CONTRADICTORY. HOWEVER, IN MY VIEW, THERE IS SUFFICIENT EVIDENCE TO CONCLUDE THAT SOME OF THE PROPERTY DAMAGE WAS CAUSED BY POLICE OFFICERS. AT LEAST ONE OF THE OFFICERS WHO TESTIFIED AT THE PUBLIC INVESTIGATION INDICATED THAT HE SAW ANOTHER OFFICER SMASH A REAR WINDOW OF A CIVILIAN VEHICLE. THE EVIDENCE OF THE CITY-TV CAMERAMAN AND OTHER OFFICERS, TO SOME EXTENT, CORROBORATES THE COMPLAINANTS' TESTIMONY THAT SOME OF THE OTHER PERSONAL PROPERTY WAS DAMAGED BY POLICE OFFICERS.

RECOMMENDATIONS

1. I RECOMMEND THAT THE CHIEF OF POLICE, ON BEHALF OF THE METROPOLITAN TORONTO POLICE FORCE, PUBLICLY APOLOGISE FOR THE EXCESSES OF THOSE OFFICERS SEEN TO BE ASSAULTING CIVILIANS.

2. I RECOMMEND THAT THE CHIEF OF POLICE, ON BEHALF OF THE FORCE, APOLOGISE, IN WRITING, TO EACH COMPLAINANT FOR THE INAPPROPRIATE MANNER IN WHICH SOME OFFICERS CONDUCTED THEMSELVES.

3. I RECOMMEND THAT THE CHIEF OF POLICE, ON BEHALF OF THE FORCE, OFFER TO COMPENSATE THOSE COMPLAINANTS WHO CLAIM THAT THEIR PROPERTY WAS DAMAGED BY OFFICERS AND AGREE TO A FORMULA OR MECHANISM TO FACILITATE THIS WITHOUT HAVING TO RESORT TO THE CIVIL COURTS.

4. I RECOMMEND THAT ALL OFFICERS BE INSTRUCTED TO COMPLY WITH EXISTING REGULATIONS WHICH REQUIRES THEM TO WEAR THEIR CAPS AND CAP IDENTIFICATION BADGES AT ALL TIMES WHEN DEALING WITH THE PUBLIC. THE ONLY EXCEPTION TO THIS SHOULD BE WHEN IN A POLICE BUILDING, WHEN DRIVING OR RIDING IN A MARKED POLICE VEHICLE OR IN SPECIAL CIRCUMSTANCES WHERE COURTESY DICTATES.

5. I RECOMMEND THAT CURRENT OPERATIONAL PROCEDURES REGARDING MAJOR INCIDENTS BE AMENDED TO INCLUDE A PROVISION REQUIRING THAT THE DISTRICT COMMANDER BE INFORMED IMMEDIATELY OF A MAJOR INCIDENT AND THAT HE BE RESPONSIBLE FOR ENSURING THAT SUFFICIENT SUPERVISORY OFFICERS ATTEND TO PROVIDE PROPER DIRECTION AND ADVICE TO OFFICERS AT THE SCENE.

6. I RECOMMEND THAT THE CHIEF OF POLICE CONSIDER THE USE OF MITRE RADIO SETS OR OTHER SIMILAR ELECTRONIC EQUIPMENT AS A MEANS OF EFFECTIVE COMMUNICATION IN INCIDENTS INVOLVING LARGE NUMBERS OF OFFICERS AND THAT THE DISTRICT COMMANDER BE RESPONSIBLE FOR

ENSURING THAT SUFFICIENT EQUIPMENT IS PROVIDED, IN ORDER TO PROVIDE PROPER DIRECTION AND ADVICE TO OFFICERS AT THE SCENE.

7. I RECOMMEND THAT CURRENT OPERATIONAL PROCEDURES REGARDING MAJOR INCIDENTS BE CLARIFIED TO STRESS THAT ALL OFFICERS PRESENT ARE REQUIRED TO COMPLY WITH ALL INSTRUCTIONS FROM SUPERVISORY PERSONNEL AND THAT THOSE INSTRUCTIONS PRECLUDE INDEPENDENT ACTION. THE CIRCUMSTANCES IN WHICH INDEPENDENT ACTION IS JUSTIFIED SHOULD BE DEFINED WITH AS MUCH PRECISION AS POSSIBLE.

8. I RECOMMEND THAT A "RECORDING OFFICER" BE ASSIGNED TO ALL MAJOR INCIDENTS TO KEEP A CURRENT LOG RECORDING ALL DETAILS OF INSTRUCTIONS GIVEN, ACTIONS TAKEN, DECISIONS MADE, OBSERVATIONS OF SUPERVISORY PERSONNEL AND ALL OTHER INFORMATION WHICH MAY BE PERTINENT TO A LATER REPORTING OF THE OCCURRENCE. THIS WOULD PLACE LESS RELIANCE ON THE INDIVIDUAL MEMORIES OR RECOLLECTIONS OF OFFICERS WHO MAY BE ACTIVELY ENGAGED IN THE OCCURRENCE.

9. I RECOMMEND THAT EVERY OFFICER WHO WAS PRESENT AT MORRISH ROAD BE REQUIRED TO TAKE A REFRESHER COURSE ON CROWD CONTROL AND BATON TRAINING AND THAT THE CHIEF OF POLICE CONSIDER THE ADEQUACY OF THE AMOUNT OF IN-SERVICE TRAINING PRESENTLY GIVEN TO CONSTABLES.

MTP 106
June, '82

Metropolitan Toronto Police

NEWS RELEASE

590 Jarvis Street,
Toronto, Ontario.
M4Y 2J5

Unit:

Telephone: 967-

Date: SEPTEMBER 2, 1983

MUCH HAS BEEN SAID AND WRITTEN SINCE THE REPORTING BY THE MEDIA OF WHAT BECAME KNOWN AS THE MORRISH ROAD INCIDENT.

ALL OF THE FACTS HAVE BEEN EXTENSIVELY COVERED AND I FEEL THAT IT IS NOW MY DUTY TO COMMENT ON THIS MATTER FOR THE BENEFIT OF THE PUBLIC AT LARGE AND ON BEHALF OF THE METROPOLITAN TORONTO POLICE FORCE.

A THOROUGH INVESTIGATION INTO THIS INCIDENT WAS FIRST CONDUCTED BY MEMBERS OF THIS FORCE, AND THEN BY THE STAFF OF THE PUBLIC COMPLAINTS COMMISSIONER, MR. SIDNEY LINDEN, Q.C. THE RESULTS OF THESE INVESTIGATIONS ARE PUBLIC KNOWLEDGE.

THE INCIDENT ITSELF OCCURRED AS A RESULT OF A VERY LARGE PARTY WHICH WAS BEING HELD AT 535 MORRISH ROAD ON MAY 29/30, 1982. IT WAS ESTIMATED THERE WERE SOME 300 TO 500 PEOPLE IN ATTENDANCE AND, SUBSEQUENTLY, SOME SIXTEEN CALLS OF COMPLAINT WERE MADE TO THE POLICE BY CONCERNED CITIZENS IN THE AREA, OVER A TWO HOUR PERIOD.

Signature ..... Rank ..... Unit 632

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AT VARIOUS TIMES SOME 53 POLICE OFFICERS ATTENDED AT THE SCENE AND WERE SUCCESSFUL IN CONTAINING THE SITUATION TO A SATISFACTORY DEGREE.

HOWEVER, AS THE NUMBER OF PARTYGOERS BEGAN TO DIMINISH, THE SITUATION BECAME VERY VOLATILE BECAUSE OF THE ACTIONS OF SOME INDIVIDUALS.

I WISH TO MAKE IT QUITE CLEAR AT THIS POINT THAT THE MAJORITY OF THE POLICE OFFICERS WHO WERE AT THE SCENE ACTED IN A PROFESSIONAL MANNER AT ALL TIMES, AND ARE TO BE COMMENDED FOR THEIR RESTRAINT UNDER VERY TRYING CONDITIONS.

UNFORTUNATELY, A SMALL NUMBER OF OFFICERS, FIVE OR SIX, OVER-REACTED TO THE SITUATION AND THEREBY BROUGHT DISCREDIT UPON THEMSELVES AND THE FORCE. IN THAT REGARD I HAVE NO HESITATION IN APOLOGIZING PUBLICLY FOR THEIR ACTIONS.

FOLLOWING RELEASE OF THE PUBLIC COMPLAINT COMMISSIONER'S REPORT THERE WERE SUGGESTIONS IN SECTIONS OF THE MEDIA THAT ALL 53 POLICE OFFICERS WHO WERE AT THE SCENE, THE INNOCENT AS WELL AS THE GUILTY, SHOULD BE SUSPENDED FROM DUTY AND DISCIPLINARY ACTION TAKEN AGAINST THEM.

UNDER THE POLICE ACT OF ONTARIO A POLICE OFFICER MAY ONLY BE SUSPENDED FROM DUTY (HE REMAINS ON FULL PAY) IF HE IS SUSPECTED

OR CHARGED WITH A FEDERAL OR PROVINCIAL OFFENCE, OR AN OFFENCE AGAINST DISCIPLINE UNDER THE REGULATIONS. IF A CHARGE IS NOT LAID WITHIN 48 HOURS OF THE SUSPENSION HE MUST BE RETURNED TO DUTY.

A POLICE OFFICER MAY ONLY BE SUSPENDED FROM DUTY WITHOUT PAY IF HE IS CONVICTED OF AN OFFENCE FOR WHICH A TERM OF IMPRISONMENT IS IMPOSED.

IN THIS PARTICULAR CASE IT WAS NOT POSSIBLE TO IDENTIFY THE OFFICERS RESPONSIBLE SO CHARGES COULD NOT BE LAID UNDER THE POLICE ACT OR THE CRIMINAL CODE OF CANADA.

IT IS UNFORTUNATE, TO SAY THE LEAST, THAT EVIDENCE AGAINST THE OFFICERS CONCERNED WAS NOT FORTHCOMING, AND I REITERATE WHAT I SAID AFTER I HAD VIEWED THE VIDEO TAPES SHORTLY AFTER THE INCIDENT, THAT I WAS APPALLED AT WHAT I HAD SEEN, AND THAT I DID NOT, AND I DO NOT CONDONE, IN ANY WAY WHATSOEVER, THE USE BY POLICE OFFICERS OF UNNECESSARY FORCE OR VIOLENCE.

THE CIVIL ACTIONS LAUNCHED AGAINST THE FORCE AS A RESULT OF THE INCIDENT HAVE ALL BEEN SETTLED.

THERE IS ONE MATTER STILL BEFORE THE COURTS ABOUT WHICH I WILL NOT COMMENT.

Address all correspondence to the Chief of Police

Metropolitan Toronto Police

JOHN W. ACKROYD Chief of Police

590 Jarvis Street
Toronto Ontario
Canada M4Y 2J5

(416) 967-2222

Please reply attention of
Executive Services.

File No. 19355

October 12, 1983

Mr. Sidney B. Linden, Q.C.,
Public Complaints Commissioner,
157 Bloor Street West,
TORONTO, Ontario.
M5S 1P7

Dear Sir:

Re: Morrish Road Incident

I have been asked by Chief John Ackroyd to acknowledge and reply to your letter of October 4, relative to our response to your recommendations.

1. On September 2, 1983, Chief Ackroyd made a news release and later in the day, held a press conference, apologizing for the conduct of some members of our Force. The press conference was attended by representatives from the press, television and radio.

2. On September 12, 1983, I forwarded letters of apology to all but one of the persons who registered complaints. The lone exception is a person who has commenced an action against Chief Ackroyd and the Force. Metro Legal Department attempted to settle the matter, but the plaintiff declined. The matter will be going to trial and we were, therefore, requested by Metro Legal, not to make an apology in this case.

3. Five persons instituted claims against the Force, in Small Claims Court. All five have been settled through Metro Legal Department and did not go to trial. Refer to the previous response, relative to an action, still pending, in the County Court.

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4. A reminder has been published in Routine Orders, relative to the existing regulations pertaining to the wearing of police caps and badges, as well as identification numbers.

5. Our Operational Planning Unit is reviewing our procedure on "Disorderly Crowds". As I read through your file on Morrish Road, I made notes of areas which could be improved or addendums made in our current procedure. A memo setting out 11 points was forwarded by me, to Operational Planning, included in which was a recommendation for additional supervisors.

6. Two of my recommendations pertained to more mitre sets being made available at such incidents, as well as more upward, downward and lateral communication at the scene.

7. Another of my recommendations was that upon arrival at the scene, all personnel, as well as being instructed on the basic strategy, also be advised not to act unless directed by a supervisor.

8. Another recommendation was that each supervisor appoint a constable to keep accurate and complete notes of the event.

9. All officers present at Morrish Road attended a refresher course on crowd control and baton training, at our Police College.

Police officers attend our Police College every three years on a 13 day in-service course. Other courses are held touching on such subjects as dealing with juvenile offenders, drug investigation courses, plainclothes duties, investigative techniques, instructional techniques, etc.; In the last few years, we have instituted courses which all personnel were required to attend, such as policing a multi-cultural society, crisis intervention, use of the Tonfa baton, and currently, a course on C.P.R. (cardio pulmonary rescusitation). While it is necessary to furnish all personnel with not only basic, in-service and special training courses, a balance must be struck with operational requirements, particularly in a period of budget restraints. It is, therefore, not practical at the present time, to increase in-service training.

Yours truly,

J. Noble

J. Noble,
Deputy Chief of Police,
Executive Services.

JN:mc